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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,955	11/25/2003	Edward Williams	GOEA 02836 PTUS	5914

32233 7590 04/26/2005

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EXAMINER

JULES, FRANTZ F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,955

Applicant(s)

WILLIAMS, EDWARD

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-20 and 24 is/are allowed.
- 6) ☒ Claim(s) 25, 26, 31, 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 27-30, 32, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/04/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Figs. 9-11 and 15, claims 15-20, 24-36 in the reply filed on 06/10/2004 is acknowledged. The traversal is on the ground(s) that Figs. 1-3 and 7-15 are related. This is not found persuasive because they constitutes different species which requires special search each.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-14, 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 06/10/2004.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25-26, 31, 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Beiswenger (US 3,971,323).

Beiswenger discloses a ballast tamping tool comprising a blade (21) having a height, a width and a depth, being substantially rectangular in shape, the blade tapering at a bottom end and having a groove (22) cut into the bottom end of the blade across the width as disclosed in col 3, lines 30-40, a front side of the blade having a layer of tiles

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(24) of a wear-resistant material secured thereto, overlaying substantially the entire front side of the blade; a tip of tiles of a wear-resistant material with a rounded top (26') and a tapered bottom end being secured in the groove along the bottom width of the blade, such that the rounded top (26) of the tile projects below the bottom end of the blade as shown in fig. 7; and a substantially cylindrical shank (20) having an upper end capable of being attached to a tamping machine, and a lower end that tapers as shown in fig. 4, the tapered portion being attached to a top end of the blade.

The tile being of wear resistant material secured to at least a portion of a rear side of the blade as disclosed in col 2, lines 1-3 in accordance with claim 26.

The shank and the blade are made from a single unit in accordance with claim 31.

The tiles having tear drop shape being secured by means comprising gluing, soldering, brazing or welding in accordance with claim 33-34.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beiswenger (US 3,971,323) in view of Crowel (US 5,261,763).

Regarding using tiles on substantially the entire rear side of the blade as recited in claim 27, it would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Beiswenger to include the use of tiles on substantially the entire rear side of the blade in his advantageous system, as the duplication /reduction of identical parts which perform essentially the same function is a common occurrence throughout the tamping tool design arts, and the specific number of tiles used on the rear side of the blade would have been an obvious duplication of parts, depending upon such common factors as the load rating of the tamping tool, the yield strength of the tamping tool material, the allowable weight of the tamping tool; the ordinarily skilled artisan choosing the best number of tiles which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

Allowable Subject Matter

7. Claims 28-30, 32, 35-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 15-20 and 24 stand allowable.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

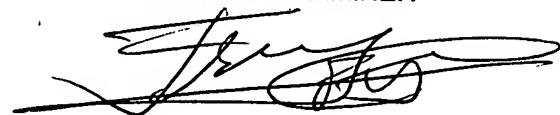
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules
Primary Examiner
Art Unit 3617

FFJ

April 19, 2005

FRANTZ F. JULES
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Frantz F. Jules', is written over the printed name and title.